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OFFICE OF PETITIONS

In re Application of
Barnes et al.
Application No. 10/613,644
Filed: July 3, 2003
Attorney Docket No. 0015-0001

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ON PETITION

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed June 15, 2006.

The petition to withdraw the holding of abandonment is **Granted**.

This above-identified application became abandoned for failure to file a response to a Notice to File Corrected Application Papers mailed on October 2, 2003. The Notice to File Corrected Application Papers set an extendable two (2) month period for reply. No timely request for extension of time was obtained under the provisions of 37 CFR §1.136(a). A reply was received on November 13, 2003. A Notice of Incomplete Reply was mailed December 12, 2003, the period of reply continued to run from the original Notice. Accordingly, this application became abandoned on December 3, 2003. A Notice of Abandonment was mailed on April 19, 2006.

Petitioner contends that a response to the Notice to File Corrected Application Papers was received on November 13, 2003. The Notice required a substitute specification and additional claim fees in the amount of \$126. Petitioner states upon receipt of the Notice of Incomplete Reply he was perplexed as to why the new Notice stated an additional \$43 was required. Petitioner contends he spoke to Eleanor Kurtz who looked into the matter and determined the second notice was incorrect and miscalculated. Petitioner insist that he was informed that \$43 was not required but \$3 was owed due to a fee increase one dollar per claim. Petitioner states on December 15, 2003 he faxed over a credit card authorization for \$3.00. Petitioner has provided a copy of the

correspondence faxed.

A review of the records shows that petitioner responded to the Notice of Incomplete reply with the submission of the \$3 authorization. Further review of the record shows that petitioner submitted three Independent claims over 3. Effective October 1, 2003 the independent claims over three for a small entity required \$43.00 per claim. Accordingly, the October 2, 2003 Notice should have required petitioner to submit \$129.00 for the three excess claims.

In view of the evidence presented, the holding of abandonment is vacated.

This application is being forwarded to the Office of Initial Patent Examination for further processing

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

A handwritten signature in black ink, appearing to read "Charlema R. Grant", with a stylized flourish at the end.

Charlema R. Grant
Petitions Attorney
Office of Petitions